

Appl. No. 10/812,587

REMARKS

The Examiner requires restriction to one of the following inventions under 35 USC 121:

- I. Claims 1-10 and 20- 23 (directed to a biomaterial comprising a hyaluronic acid derivative).
- II. Claims 11-19 and 24 (directed to a method of preventing surgical adhesions using a hyaluronic acid derivative).

The Examiner contends that the inventions are distinct from each other because the process for using the product as claimed can be practiced with another materially different product or the product as claimed can be used in a materially different process. The Examiner cites to Della Valle (US 5,202,431), contending it teaches that crosslinked hyaluronic acid has utility for the preparation of cosmetic products. Applicants respectfully traverse.

Applicants urge that there will not be an undue burden on the Examiner to conduct the search for these biomaterials and the method of their use. The subject matter of Group I would be uncovered during a search of the Group II claims. Thus, Applicants request reconsideration and removal of the restriction. To be fully compliant under 35 USC 121, however, Applicants elect Group II,

Appl. No. 10/812,587

claims 11-19 and 24 drawn to a method of preventing surgical adhesions using a hyaluronic acid derivative, for prosecution on the merits.

The Examiner also requires that a single species be elected for prosecution on the merits. The species identified by the Examiner are (1) hyaluronic benzyl esters and (2) crosslinked hyaluronic acid. Applicants elect to pursue (2) crosslinked hyaluronic acid.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Leonard R. Svensson (Reg. No. 30,330) in Costa Mesa, CA at telephone number 714-708-8555 to conduct an Interview in an effort to expedite prosecution in connection with the present application.

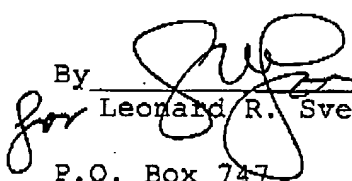
Pursuant to the provisions of 37 C.F.R. §§1.17 and 1.36(a), Applicants petition for an extension of one (1) month to November 21, 2005 for the period in which to file a response to the Office Action dated September 21, 2005. The Commissioner is authorized to charge Deposit Account No. 02-2448 for the required fee of \$120.00.

Appl. No. 10/812,587

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

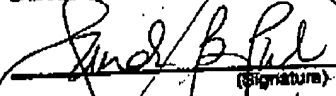
Respectfully submitted,

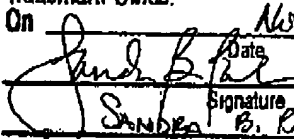
BIRCH, STEWART, KOLASCH &amp; BIRCH, LLP

By  #47,604  
for Leonard R. SvenssonP.O. Box 747  
Falls Church, VA 22040-0747LRS/SWG  
2039-0124PUS2

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on: 11/21/2005  
(Date of Deposit)

BIRCH, STEWART, KOLASCH &amp; BIRCH, LLP

  
(Signature)  
November 21/2005  
(Date of Signature)

Certificate of Transmission  
I hereby Certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office:  
On Nov. 21, 2005  
(Date)  
  
(Signature)  
Sandra B. Rau  
(Typed or printed name of person signing certificate)